

NAVFACINST 7820.1J
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NAVFAC INSTRUCTION 7820.1J

From: Commander, Naval Facilities Engineering Command

Subj: RECOVERING SUPERVISION, INSPECTION, AND OVERHEAD (SIOH)
SERVICES AT ENGINEERING FIELD DIVISIONS/ACTIVITIES (EFD/EFA) AND
THEIR SUBORDINATE ORGANIZATIONS

Ref: (a) Department of the Navy (DON) Budget Review Issue 61532, Supervision,
Inspection and Overhead
(b) NAVFACENGCOM ltr of 29 Sep 97; Subj: Contract Administration Costs for Navy
and Marine Corps Facilities Contract Actions Funded by Operations and Maintenance
Appropriations

Encl: (1) Facility Contract Management Responsibilities
(2) Definitions of Facilities Contracts

1. **Purpose.** This instruction sets forth NAVFACENGCOM policy on recovering SIOH at EFDs, EFAs, and their subordinate organizations, as well as defining the scope of their mission funded responsibilities as relates to acquisition execution support. This policy is effective as of 1 October 1997. For Public Works Center (PWC) support to public works officers, separate Contract Administration Rates (CAR) and inspection service rates are established at each PWC. PWC rates include tasks not provided by the EFD/EFA, and they are excluded from this instruction. The policy stated herein covers the customer and the performing EFD, EFA, and/or subordinate office, and in no way establishes any third party policy.

2. **Cancellation.** NAVFACINST 7820.1H of 21 September 1995 is hereby canceled and superseded. This instruction has precedence over all other NAVFACENGCOM directives which may conflict with its provisions.

3. **Background.**

a. NAVFACENGCOM was mission funded in Operations and Maintenance, Navy (O&M,N) through FY 1995 to execute Navy and Marine Corps Operations and Maintenance (O&M) funded facility contract actions. Acquisition execution support of all "other funded" facilities contract actions was reimbursed by the customer. During the FY 1996 DON summer budget review, the Naval Facilities Engineering Command's mission funding for the EFDs' execution of Navy and Marine Corps O&M funded facilities contract actions was decentralized effective 1 October 1995. As a result, EFDs' mission funds were realigned from NAVFACENGCOM to Navy Claimants and the Marine Corps for reimbursement beginning in FY 1996.

b. The FY 1999 DON summer budget review, Budget Review Issue 61532—Supervision, Inspection and Overhead, reversed the above-mentioned realignment effective 1 October 1997. Reference (a) is the budget review issue, and it provides the corresponding adjustments made to the Navy Claimants and Marine Corps. NAVFACENGCOM is back to being mission funded in O&M,N to execute planned and budgeted Navy and Marine Corps O&M funded facilities contract actions, while acquisition execution support of all “other funded” facilities contract actions continues to be reimbursed by the customer. Reference (b) notified Navy Claimants, Marine Corps, and performing NAVFACENGCOM activities of this change.

4. Policy.

a. Contract Management Responsibilities.

NAVFACENGCOM is the designated responsible agent for acquisition execution of facility requirements for the Navy and Marine Corps. NAVFACENGCOM is also a design and construction agent for the Department of Defense for specific geographical areas and/or facility disciplines. Funding necessary to support this acquisition effort is either mission funded or reimbursed by the customer, depending on the funding appropriation of the facility requirement. Reimbursement is realized either through a fixed SIOH rate, or through a direct reimbursable.

Customer activities continue to be responsible for developing requirement definitions, planning and programming for necessary funds, and providing other necessary management, coordination, and facility support contract quality assurance functions to support the warranted contracting officer in executing individual contract actions.

Satisfying facility requirements by contract is a team effort. Enclosure (1) lists specific functions for which NAVFAC and customers are responsible. Definitions of facilities contracts are provided in enclosure (2).

b. Facilities Acquisition Effort.

Facilities acquisition effort refers to acquisition support services associated with the execution of repair, maintenance, minor construction, major construction, environmental compliance and remediation services, and other facilities-type contract actions. Acquisition support services include contract management, construction inspection, supervision and overhead efforts, as well as the review and administration of contract submittals for design, construction, and facilities support contracts awarded by NAVFACENGCOM. NAVFACENGCOM facility acquisition effort is funded as delineated below.

(1) Navy and Marine Corps O&M funded facilities contract actions, including Navy and Marine Corps Reserve funds: As mentioned in paragraph 3.b., and previously discussed in references (a) and (b), a major Navy Comptroller budget change to the funding of NAVFACENGCOM occurred for Navy and Marine Corps O&M funded facilities acquisition support services provided by EFDs, EFAs, and their subordinate organizations. Specifically, beginning in FY 1998, the Navy Comptroller has eliminated the collection of SIOH on each Navy

and Marine Corps O&M funded facility contract and has provided mission funding to NAVFACENGCOM for facilities acquisition effort of contract actions funded by planned and budgeted Navy and Marine Corps Real Property Maintenance (RPM) and Other Base Operating Support (OBOS) programs. Consequently, the associated acquisition support services for these contract actions are mission funded. This covers both new obligations and obligation adjustments. Such contract actions are listed below.

(a) For facility Architect-Engineer (A-E)/design contract actions awarded by NAVFACENGCOM, the acquisition support provided includes all NAVFAC responsible support functions listed in enclosure (1).

(b) For facility support service contract actions and facility support construction contract actions (normally recurring work), the support provided includes all NAVFAC responsible support functions listed in enclosure (1), with the activity remaining responsible for all quality assurance.

(c) For one-time facility construction contract actions (normally non-recurring work), support provided includes all NAVFAC responsible support functions listed in enclosure (1).

(d) For design-build facility contract actions, a combination of (a) and (c) above.

(e) For simplified acquisition facility contract actions, the support provided is the same as (b) above if service, or (c) above if construction.

(2) Navy and Defense Agency facilities contract actions funded with other than Navy and Marine Corps O&M and Military Construction:

(a) For facility A-E/design contract actions, the acquisition support reimbursement is on a direct basis.

(b) For all facility support service contract actions and for facility support construction contract actions (normally recurring work), the SIOH recovery rate is 4% of the contract action value, including both fixed price and indefinite quantity work. Support provided with this rate includes all NAVFAC responsible support functions listed in enclosure (1). The activity is responsible for all quality assurance. Quality assurance, if requested from the contract office, would be on a direct reimbursement basis.

(c) For one-time facility construction contract actions (normally non-recurring work), the SIOH recovery rate is 8% of the contract value. Support provided with this rate includes all NAVFAC responsible support functions listed in enclosure (1).

(d) For design-build facility contract actions, the SIOH recovery is 8% plus direct reimbursement of the A-E related acquisition support effort, a combination of (a) and (c) above.

(e) For simplified acquisition facility contract actions, the SIOH rate is either 4% (service) or 8% (construction).

(3) Navy and Defense Agency facility contract actions funded with Military Construction as appropriated in the DOD MILCON Appropriation Acts: In accordance with Navy, OSD and Congressional direction, these rates have been based on aggregate workload projections under two major geographic locations, CONUS and OCONUS, vice contract action. These fixed rates are not meant to be activity unique, project unique and/or contract unique. This acquisition support includes all appropriations in the DOD MILCON Appropriations Act, including Family Housing O&M, as well as the various accounts within the BRAC appropriations, such as environmental, O&M, etc.

(a) For all facility contract actions, including land acquisition, demolition, turnkey construction, installation cost, and utility hook-up costs, the SIOH recovery rate is 6% CONUS and 6.5% OCONUS.

(b) For A-E/design contract actions, acquisition support reimbursement is on a direct basis.

(c) For Navy and Marine Corps MILCON, Navy and Marine Corps Family Housing Construction, Navy Family Housing O&M, and major elements of Navy BRAC, such as construction, design and environmental restoration, NAVFACENGCOM funds execution support.

(d) For purposes of this instruction, all non-appropriated funded (NAF) facilities contract actions are considered MILCON. However, NAF facilities can be designed and constructed to meet unique customer requirements, and contract management will be reviewed on a case-by-case basis.

(4) Acquisition support for NATO funded construction will be reimbursed in accordance with NATO policies in effect at time of award.

(5) Navy and Marine Corps facilities contract actions funded with the Defense Environmental Restoration (Transfer) Account (ER,N): The ER,N transfer account for Navy and Marine Corps is centrally managed and executed by NAVFACENGCOM in the Navy O&M Appropriation. All acquisition support services are directly charged to the program. Field office support is covered by 3% SIOH recovery (fixed rate). For the Navy and Marine Corps ER,N, NAVFACENGCOM funds execution support. Other defense agency environmental restoration funded facilities contract actions are handled in accordance with paragraph 4.b.(2).

(6) Other acquisition effort in support of the following programs:

(a) **Civil Works Facility Support Contracts:** The method of reimbursement for NAVFACENGCOM's acquisition support at Civil Works facilities is dependent on the type of contract action. Reimbursement is either by recovering supervision, inspection, and overhead (SIOH) as a flat percentage mark-up based on the contract value, or on a direct reimbursable

basis. The value of the direct reimbursement is based on estimates provided by the NAVFACENGCOM associates providing the Civil Works support. The method of reimbursement by contract “type” (capital rehabilitation vs. facilities service) is outlined below:

(i) Construction Contract Actions (including Capital Type Rehabilitation (CTR) contracts): (normally non-recurring, Resident Officer in Charge of Construction (ROICC)-type contract actions), the acquisition support recovery method is SIOH, 6% of the contract value.

(ii) A-E/Design Contract Actions (includes environmental studies): the acquisition support recovery method is by direct reimbursement.

(iii) Design-Build Contract Actions: the acquisition support recovery method is 6% SIOH, plus direct reimbursement of the A-E related effort, a combination of (1) and (2) above.

(iv) Facility Support Contract Actions (including facility support service and facility support construction contracts): the acquisition support recovery method is by direct reimbursement. Quality assurance inspection is the responsibility of the customer (the activity or the major claimant, as applicable). If quality assurance services (QAE) inspector(s) are requested of NAVFACENGCOM by the customer, these services may be provided by NAVFACENGCOM on a direct reimbursable basis.

(b) **Timber Harvesting:** Forestry service contracts for Navy and Marine Corps O&M funded activities are mission funded. Non-Navy and Marine Corps customers are direct reimbursable. All forestry sale contracts are direct reimbursable.

(c) **Specialized Studies:**

(i) Regardless of source of funding appropriation, technical support for specialized studies/analyses is directly reimbursed by the customer. Some examples (**not all**) of specialized studies/analyses are: NEPA, planning, and other project documentation, specialized testing and assessments, hazard determination analyses, cultural/natural resources, historic, facility condition inspection/assessments, and technical energy services associated with Demand Side Management (DSM) actions. Specialized technical support is not considered mission funded Engineer-in-Charge (EIC) oversight effort.

(ii) EIC oversight effort of A-E/Design contracts for studies performed during the final design process of a facilities repair, maintenance, construction, and/or environmental compliance contract action, and/or in support of post award design for those contract action types is mission funded for Navy and Marine Corps O&M funded contract actions.

(iii) For all other funded similar contract action types, EIC effort is a direct reimbursable. **Further, regardless of funding, requests for EIC effort, and/or for technical reviews of locally prepared designs are a direct reimbursable.**

(d) **Contingency Operations:** Regardless of requester and funding, contingency operations are not considered planned and budgeted. While mission funding may be used on an interim basis, acquisition support effort is a direct reimbursement.

(e) **Utility Contract/Agreement Actions:**

(i) Since DSM utility contracts/agreements are not planned or programmed, the acquisition effort in support of the realization of such contracts/agreements is directly reimbursed by the benefiting customer(s).

(ii) The acquisition effort in support of the realization of an Energy Savings Performance Contract (ESPC), executed under the authority in 42 U.S.C., is centrally managed by NAVFACENGCOM for Navy and Marine Corps customers. Typical acquisition support services as outlined in paragraph 4.b. are not normally required for ESPCs. Measurement and verification of contractor performance are the responsibilities of the customer, who may acquire technical support from NAVFACENGCOM through direct reimbursement.

(iii) The acquisition effort and engineering services in support of competitive and noncompetitive acquisition of utilities services are mission funded for Navy and Marine Corps customers. (Normally invoice certification is delegated to the customer and becomes the customer's responsibility.)

(f) **Cooperative Agreements and Public/Private Ventures and Leased Construction:** Costs associated with acquisition support efforts in support of facility related cooperative agreements, public/private ventures, and/or leased construction must be reimbursed by either the benefiting program or the benefiting customer. There is no NAVFACENGCOM mission funding available to support these costs. Acquisition support will be handled on a case-by-case basis.

c. **Reimbursement Procedure.**

When reimbursement for acquisition support effort is applicable, the contracting officer, warranted with NAVFACENGCOM contracting authority, shall not proceed with any facility contract action until the appropriate SIOH (fixed rate) funds/reimbursement have been furnished by the customer. Reimbursement must be provided by the customer simultaneously with the funding for the contract action. (NAVFACENGCOM's EFD structure outside of "closed bases" has no host structure. Host/Tenant funding relationships are the responsibility of the host and the tenant, not NAVFACENGCOM or its components. Closed bases' Host/Tenant relationships have separate agreements.)

d. **Commercial Cards.**

When the NAVFACENGCOM Commercial Purchase Card is obtained and used by a NAVFACENGCOM customer, SIOH/direct reimbursement does not apply. The customer will be totally responsible for the performance, quality, timeliness and acceptance of the service, product, or construction.

e. **Cranes.**

The acquisition effort in support of crane procurements is not covered by this instruction. The appropriate funding guidance and functional responsibilities can be found in SECNAV Instruction 11260.2 of 10 September 1997.

5. **Policy waiver.** A command-wide balance of mission, reimbursement, and SIOH resources to their respective workload is necessary to ensure adequate acquisition management, administration, and oversight, as well as corporate funding solvency. Exceptions to this policy, regardless of customer, project, and/or amount, impact this command-wide balance. Consequently, all exceptions to this policy can be granted only by COMNAVFACENGCOM.

6. **Action.** Addressees shall adhere to the policy and guidance set forth herein.

R. L. MOELLER
Vice Commander

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NAVFACENGCOM Internal List 1

FACILITY CONTRACT MANAGEMENT RESPONSIBILITIES

NAVFAC RESPONSIBILITIES INCLUDE:

1. Provides acquisition planning support to include participation in developing acquisition strategies, selection of contract type, and establishing execution schedules.
2. Provides acquisition planning and engineering services, to include requirements definition and preparation of technical specifications, in support of competitive acquisition of utility services.
3. Solicits bids/offers.
4. Conducts bid openings and/or negotiations, makes contract awards.
5. Issues Mods and Delivery Orders.
6. Processes protests and disputes.
7. Monitors overall contract performance, certifies invoices, processes payment.
8. Provides procurement oversight of contract management functions, provides quality assurance for one time facility construction contract actions (normally non-recurring).
9. For requirements executed at an EFD/EFA, provides project management, and EIC effort in support of design and Post Construction Award Services (PCAS) from receipt of requirement through project close out.

CUSTOMER RESPONSIBILITIES INCLUDE:

1. Provides acquisition planning to include developing requirements definitions and programming for funds.
2. Provides funding for all contract obligations associated with each contract action, as well as applicable SIOH to NAVFAC for contract services.
3. Prepares plans and specifications/A-E scope of work and quality assurance plans.
4. Reproduction of plans and specifications.
5. Manages day to day coordination efforts.
6. Prepares cost estimates for the contracting officer.
7. Prepares safety plans for facilities support contracts (FSCs), normally recurring work.

8. Performs quality assurance functions for FSCs, normally recurring work, and verifies work performed for payment and certifies and/or processes the invoice if so delegated by the contracting office.
9. Prepares technical requirements for Delivery Orders.
10. For requirements not executed at an EFD/EFA (i.e. station award), provides all project management, EIC effort, technical support and in-house support of PCAS from requirements definition through project close out.

DEFINITIONS OF FACILITIES CONTRACTS

Facility Contracts - any contract normally funded from annual appropriations which provides for the maintenance, operations, equipment installation, repair, or alteration of real property assets by a contractor on site. Facility contracts are usually awarded following sealed bid or negotiated procedures, describe work requirements in various formats, and may be used to satisfy both one time and recurring facility requirements.

Facility Support Contracts - contracts used for recurring facility requirements of repair, maintenance and/or restoration of real property assets and equipment to preserve facilities in a usable or operable condition. FSCs may be further described as facility support service or facility support construction contracts or a combination thereof.

Facility Support Service Contract - any contract which provides for the maintenance and/ or operation of real property assets and is required by the character of the labor involved to include a Service Contract Wage Determination. May also be a contract having a value of less than \$2000 for the repair and alteration of real property assets. Typical contracts provide for janitorial services, ground maintenance, guard services, transportation services, motor pool operations, pest control services. (A Service Contract Wage Determination is not required for overseas.)

Facility Support Construction Contract - any contract in excess of \$2000 in value which provides for the repair and/or alteration of existing real property assets and is required by the character of the labor involved to include a Davis-Bacon Act Wage Determination. Typical contracts provide for the maintenance of building and structures, road and sidewalk repairs, painting, roofing and asphalt patching, and minor building alterations and/or repairs. (A Davis-Bacon Act Wage Determination is not required for overseas.)

Base Operating Support Contract is a single facility support contract intended to satisfy multiple facility service and/or facility construction requirements. BOS contracts may contain both facility service and facility construction components.

An Architect-Engineer (A-E) contract provides for:

(a) Professional services of an architectural or engineering nature, as defined by state law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services;

(b) Other professional services associated with research, planning, development, design, construction, alteration, or repair of real property that the contracting officer determines are of an architectural or engineering nature; and

Enclosure (2)

(c) Other professional services of an architectural or engineering nature (including surveying and mapping, plans and specifications, value engineering, construction phase services, soil engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that the contracting officer determines should logically or justifiably be performed by members of the A-E professions (and individuals in their employment).

(d) Other incidental services (including studies, investigations, test, evaluations, consultations, comprehensive planning, program management, and conceptual design) that the Contracting Officer determines should logically or justifiably be performed by members of the A-E professions (and individuals in their employment) in conjunction with professional A-E services acquired by P.L. 92-582 procedures.

Design-Build Contract is a single contract for facility acquisition, alteration, or repair containing a performance based work requirement which places total responsibility for both detailed design and construction execution on a single contractor. Design-build contracts may be awarded after following sealed bid (Newport Design Build) or negotiated procedures.

Job Order Contract (JOC) is a firm fixed-price indefinite quantity contract which contains an extensive database of priced tasks encompassing most aspects of facilities maintenance and construction work. This database of priced tasks is used to describe and provide a basis for the negotiation of firm fixed-price work orders.

Task Order Contract (TOC) is a multiple award construction contract with a base year and usually two option years. There is a guaranteed minimum and a maximum. A request for procurement is issued; advertisement is made; and, several firms are selected for future delivery order awards. Each order is then competitively bid among this select group of firms.

Solution Order Concept (SOC) is a multiple award, indefinite quantity contract for design-build services where delivery orders are typically competed among awardees.

Multi-trade Contract is a firm fixed-price indefinite quantity contract which contains a schedule of priced labor rates and a pricing mechanism for establishing material costs which together are used to provide a basis for the negotiation of firm fixed-price work orders.